

Mr. Jack Lightfoot
Chair, NH Guardian ad Litem Board
Nov 19, 2009

Mr. Lightfoot,

My name is Greg Brede. Per my Oct 30, 2009 E Mail addressed to you and the GAL Board, I am providing my thoughts on GAL training that may be helpful.

I understand and empathize with the challenges that a board certified GAL encounters during the court ordered investigation into the Best Interest of the Children. The children are the focal point of this investigation and the GAL's input to the court is paramount to insure proper decisions are reached. During this investigations, a GAL may encounter very disturbing information of domestic violence, sexual abuse and neglect, that when supported by evidence and proof that these incidents actually occurred, would enable the GAL to make a recommendation that is in the Best Interest of the Children.

It is unfortunate that during an investigation of what is best for the children, "the relationship between and among parents and children can obviously be a highly contentious one". With that said by yourself, the potential exists that the information provided by either party and/or the children involved has the potential to influenced to favor a particular recommendation by the GAL. With real events of DV and real events of sexual abuse and neglect, it is understood how a GAL can reach a conclusion that an event did occur. With real events of false allegations of DV and false allegations of sexual abuse it is understood how a GAL can reach a conclusion that an event did NOT occur. The problem is that the GAL is acting as judge and jury with these recommendations and our system is based on due process. Therefore, a GAL should only be recommending to the court what has been observed and an input to due process. When the GAL is involved after Due Process has been performed, and the allegations dismissed, unfounded, or not guilty one can only surmise the roll of the GAL.

As the GALs are human they too have the potential to be caught up in the emotions of the events or allegations. GALs should be cautioned about informing others that sexual abuse occurred, especially when "due process" determined that no abuse occurred.

Included is information that may be useful to include in the initial GAL training along with the renewal training every three years.

1. EDUCATE THE GALs ON THE EXISTING LAWS OF SEXUAL ABUSE

169-C:3 Definitions. – When used in this chapter and unless the specific context indicates otherwise:

I. "Abandoned" means the child has been left by his parent, guardian or custodian, without provision for his care, supervision or financial support although financially able to provide such support.

II. "Abused child" means any child who has been:

- (a) Sexually abused; or
- (b) Intentionally physically injured; or
- (c) Psychologically injured so that said child exhibits symptoms of emotional problems generally recognized to result from consistent mistreatment or neglect; or
- (d) Physically injured by other than accidental means.

It is important that a GAL is aware that Psychologically injury is a form of child abuse.

2. EDUCATE THE GALs THAT FALSE REPORTING OF DV DOES OCCUR DURING A DIVORCE/CUSTODY DISPUTE.

3. EDUCATE THE GALs THAT FALSE REPORTING OF SA DOES OCCUR DURING A DIVORCE/CUSTODY DISPUTE.

Here are some references that may support the training.

<http://www.ipt-forensics.com/library/saadcd.htm>

<http://angiemedia.com/?p=1385>

<http://www.backlash.com/content/gender/1999/8-aug99/aust0899.html>

There is disagreement over how many of these accusation are false, although most estimates range between 20% and 80%. Thoennes and her colleagues report that in 33% of the cases in their survey no abuse was believed to have occurred. Abuse was believed likely in 50%, and in 17% no determination could be reached (Thoennes & Pearson 1 988a, 1 988b; Thoennes & Tjaden, 1990). However, the criterion for determination was the opinion of custody evaluators and child protection workers rather than the decision of the justice system.

In over 500 cases of sexual abuse allegations where we have provided expert consultation over the past 6 years, 40% have been in divorce and custody disputes. Of the divorce and custody cases that have been adjudicated, in three-fourths there was no legal finding of abuse. That is, charges were dropped,

never filed, the person was acquitted in criminal court, or there was a finding of no abuse in family or juvenile court.

Dwyer (1986) reports similar statistics, concluding that 77% of the divorce⁴linked allegations of sex abuse cases coming to the Human Sexuality Program at the [University of Minnesota](http://www.umn.edu) have turned out to be "hoax" cases. This conclusion was based on the opinion of the staff that the allegations were not accurate. Although other estimates are lower, most professionals agree that the proportion of false allegations is likely to be highest when the allegation surfaces in a conflict over custody and visitation.

Others, however, caution professionals not to conclude immediately that an allegation is false simply because it arises in a divorce and custody dispute. Proponents of this view believe that, although there may be a disproportionate number of false accusations in divorce and custody disputes, most accusations of sexual abuse in this context are true. Faller (1990b) gives three possible reasons why a truthful allegation might surface initially during a divorce: (1) the nonoffending parent finds out about the sexual abuse and decides to divorce the offending parent; (2) there is long-standing sexual abuse that is revealed only in the context of divorce; or (3) sexual abuse is precipitated by the marital dissolution.

To maintain balance, the other side of this argument presents that false allegations are not prevalent during divorce custody disputes.

http://www.leadershipcouncil.org/1/res/cust_myths.html

<http://www.omsys.com/mmcd/courtrev.htm>

Societal acceptance of these myths assists perpetrators of family violence by giving them custody of their victims and by encouraging public denial about the failure of the legal system to protect these children. The Leadership Council prepared this analysis because we believe that society as a whole benefits when the public has access to accurate info.

Many people believe abuse allegations are rampant in custody and divorce litigation where they are used primary by mothers to gain a tactical advantage. When antagonistic parents are locked in legal disputes it is reasonable to be concerned about their motives when abuse allegations are raised. However, research has consistently shown that sexual abuse allegations are not common during custody litigation and when thoroughly investigated are no more likely to be false than allegations raised when at other points in time.

Similar results have been found by other researchers. An Australian study (Brown et al., 1997) found the overall rate of false allegations during divorce to be about 9%, similar to the rate of false allegations at any other time. Schuman (2000) reviewed research that found a range of 1-5% for rates of deliberately false allegations, and 14-21% for mistaken allegations.

As we can see, there are two sides to the false allegations argument. As a GAL, you need to follow the rulings from the Court, or investigation and not by you own judge and jury.

4. RECOMMEND SUPERVISED VISITATIONS DURING THE ALLEGATION INVESTIGATION AT A SUPERVISED VISITATION CENTER TO MAINTAIN PARENT CHILD BOND

During the investigation of the allegations of either DV or SA, the accused access to the children is removed. Despite supervised visitation being a positive direction to maintain the parent child relations while due process is occurring, supervised visit can only begin within the supervised visitation centers that are chartered under FCAV 2008 Standards for Best Practice once the allegation have been determined to be unfounded. A recommendation by the GAL may support overturning this current limitation.

5. EDUCATE THE GALs ON PARENTAL ALIENATION

The time one parent is separated from the other can be lengthy. It may be of interest to focus on any demeanor change between the child and the accused. Photos of the parent child relationship prior to the separation may prove helpful is assign this change. In the event a demeanor change is present, discuss with both the accused and child if there is any reason that the change exists. Frivolous explanations and reasons should be explored. Inconsistencies in reasons, seeking externally guidance, borrowed scenarios, and scenarios that are above the child's mental development level should be explored.

When and if there is a concern of inconsistencies in reasons, seeking externally guidance, borrowed scenarios, and scenarios that are above the child's mental development level Parental Alienation (PA) may need to be looked into.

The challenge with looking into PA is the nationwide controversy as to whether this does or does not exist. Since this is not in the DSM, it can't be occurring because it does not exist. If it appears that the child has inconsistencies in reasons, seeking externally guidance, borrowed scenarios, and scenarios that are above the child's mental development level, and/or lack of ambivalence, Parental Alienation may be a factor. If one parent is intentionally preventing the other parent for being in the child's life, despite

court orders or parenting plans indicating they should be, Parental Alienation may be a factor.

It is important to note that despite not being in the DSM the above identified issues can cause the following long term affects and lead into adult life to a child exposed to this:

Mass General Hospital (MGH) also discovered that the more the parents fought or where at odds with each other, the more intense or disturbed the children became mentally and emotionally. And the more disturbed and upset the children became, the more their emotional wellbeing was affected. The following are the statistical results from MGH's project on the Impact of High Conflict Divorce on Children:

- Ø 65% had anxiety severe enough to require therapy
- Ø 56% Developed Attachment disorder;
- Ø 48% had abnormal fears and phobias;
- Ø 44% of both boys and girls became physically aggressive;
- Ø 31% had sleep disorders
- Ø 29% withdrew from activities including ones that they loved to do
- Ø 24% developed opposition defiant behavior, including temper tantrums and uncontrolled outbursts
- Ø 21% prematurely became involved in sexual activity
- Ø 13% began bed wetting
- Ø 10% developed dissociative personality disorders (once known as multiple personality disorders)

Additionally, the book “Adult Children of Parental Alienation” by Dr Amy Baker may be helpful.

It is helpful to identify the difference between real DV or SA and false allegations. The real DV and SA is supported by physical evidence, police reports, medical reports, external reporting absent a divorce custody dispute, or the child revealing this to a friend, other parent or other while the parents are cohabiting without conflict.

6. EDUCATE THE GALs OF ALTERNATE METHODS OF PARENT CHILD REUNIFICATION OTHER THAN A SUPERVISED VISITATION CENTER

When a child presents information to either yourself or her therapist that is shown to be false by the court or actually did not occur, verify the information coming from the child and be mindful that children do lie and can be influenced by an alienating parent.

In situation where un-creatable allegations are presented or when the court finds that DV or Child Sexual Abuse did not occur and your position is for parent child reunification consider not following the guidelines of the NH Governors Commission on DV and Sexual Abuse Benchcard on Supervised Visitations. "Unrestricted Visitation is appropriate when there is no domestic violence or child abuse and the parents agree on the conditions of the shared parenting". If one parent is not agreeing to allow the other parent have unrestricted visitations, consider enrolling the alienated parent and the child in Family Therapy to discuss the issues at hand. This provide a more positive parent child reunification in Parental Alienation case that what can be accomplished at a Supervised Visitation Center that has restriction on therapeutic reunification.

Ref Family Visitation and Access Cooperative Standards 2008

6.4 Therapeutic Supervised Visitation

In cases where it has been determined to be appropriate, therapeutic supervision refers to supervised visitation conducted by a licensed or certified mental health professional who is trained to provide supervised visitation in accordance with the Supervised Visitation Network and Center standards and policies, while interacting with the parent and child to address therapy related issues. Any recommendations regarding a child's residential determination or access to non-residential parent should not be based solely on the therapeutic supervised visits.

Since therapy often involves emotionally charged dialogue, it often deviates from the mission of supervised visitation which is to "ensure that children are safe from domestic violence, abuse and neglect, while having contact with the parent with whom they do not reside." For this reason, the FVAC discourages therapeutic supervised visitation in family violence cases.